

FILED 09 DEC 11 15:46 USDG-ORP

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

CASSANDRA CRETIAN, LOLITA
BENNETT, CHARLES DIAHN, BRIAN
W. FITCH, GILBERT NEVERS,
HASSAN NOOR, BARNABE SANTOS,
and CHARLES FRAIZER,

09-CV-770-ST

ORDER

Plaintiffs,

v.

JOB1USA, INC., an Ohio
corporation,

Defendant.

BROWN, Judge.

Magistrate Judge Janice M. Stewart issued Findings and Recommendation (#19) on September 18, 2009, in which she recommended the Court grant Plaintiffs' Motion to Remand (#8). Defendant filed timely Objections to the Findings and Recommendation. The matter is now before this Court pursuant to

28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*); *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988).

In its Objections, Defendant contends the Magistrate Judge erred when she relied on several cases decided before *Harris v. Bankers Life & Casualty, Co.*, 425 F.3d 689 (9th Cir. 2005), to reach her finding that Defendant "is presumed to know its own citizenship; indeed it is in the best position to know it" for purposes of removal. The Court notes at least two district courts in the Ninth Circuit have held after *Harris* that for purposes of the timeliness of removal, courts can presume a defendant "is aware of various basic personal facts, including the location of one's citizenship, without delving into the prohibited area of a defendant's subjective knowledge". See *KDY, Inc. v. Hydroslotter Corp.*, No. 08-4074 SC, 2008 WL 4938281, at *10 (N.D. Cal. Nov. 17, 2008). See also *Villareal v. Demarco*, No. CV 09-0452 PA (VBKx), 2009 WL 279111, at *2 (C.D. Cal. Feb. 5, 2009) (same). The Court agrees with reasoning of *KDY* and *Villareal* and concludes the Magistrate Judge did not err when she found Defendant is presumed to know its own citizenship for

purposes of removal.

This Court has carefully considered Defendant's other Objections, notes they are reiterations of the arguments contained in Defendant's Response to Plaintiffs' Motion to Remand, and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

CONCLUSION

The Court **ADOPTS** Magistrate Judge Stewart's Findings and Recommendation (#19), **GRANTS** Plaintiffs' Motion to Remand (#8), and **REMANDS** this matter to Multnomah County Circuit Court.

IT IS SO ORDERED.

DATED this ^{11th}~~14th~~ day of December, 2009.



ANNA J. BROWN
United States District Judge